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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,617	01/17/2007	Tetsujiro Kondo	286439US6PCT	9553

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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NORTON, JENNIFER L

ART UNIT	PAPER NUMBER
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2121

NOTIFICATION DATE	DELIVERY MODE
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04/02/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/570,617	<b>Applicant(s)</b> KONDO, TETSUJIRO	
	<b>Examiner</b> Jennifer L. Norton	<b>Art Unit</b> 2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10,13,14,16-23,25,26 and 29 is/are pending in the application.
- 4a) Of the above claim(s) 5-8,10,13,14 and 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,26 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/3/06, 1/23/08, 10/29/08</u> .                               | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The following is a **Non-Final Office Action** in response to the Election/Restriction filed on 12 December 2008. Claims 5-8, 10, 13, 14 and 16-23 have been withdrawn from consideration per Election. Claims 2, 9, 11, 12, 15, 24, 27 and 28 have been indicated as "deleted" per claims received by the Office on 03 March 2006, which the Examiner has interpreted as "cancelled". Claims 1, 3-8, 10, 14, 16-23, 25, 26 and 29 are pending in this application. Claims 1, 3, 4, 26 and 29 have been examined on their merits.

### ***Examiner's Note***

2. The Applicant has not provided each claim with the proper status identifier. Claims 2, 9, 11, 12, 15, 24, 27 and 28 were indicated as "deleted" in the claims received on 03 March 2006 by the Office.

Per MPEP 714:

## **II. MANNER OF MAKING AMENDMENTS UNDER 37 CFR 1.121**

All amendments filed on or after July 30, 2003 must comply with 37 CFR 1.121 as revised in the notice of final rule making published in the *Federal Register* on June 30, 2003 at 65 *Fed. Reg.* 38611. The manner of making amendments has been revised to assist in the implementation of beginning-to-end electronic image processing of patent applications. Specifically, changes have been made to facilitate electronic image data capture and processing and streamline the patent application process. If an amendment filed on or after July 30, 2003 does not comply with revised 37 CFR 1.121, the Office will notify applicants via a Notice of Non-Compliant Amendment that the amendment is not accepted.

The revised amendment practice is summarized as follows.

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- (A) **Status Identifiers:** The current status of all of the claims in the application, including any previously canceled or withdrawn claims, must be given. Status is indicated in a parenthetical expression following the claim number by one of the following status identifiers: (original), (currently amended), (previously presented), (canceled), (withdrawn), (new), or (not entered). The status identifier (withdrawn – currently amended) is also acceptable for a withdrawn claim that is being currently amended. See paragraph (E) below for acceptable alternative status identifiers.

Claims added by a preliminary amendment must have the status identifier (new) instead of (original), even when the preliminary amendment is present on the filing date of the application and such claim is treated as part of the original disclosure. If applicant files a subsequent amendment, applicant must use the status identifier (previously presented) if the claims are not being amended, or (currently amended) if the claims are being amended, in the subsequent amendment. Claims that are canceled by a preliminary amendment that is present on the filing date of the application are required to be listed and must have the status identifier (canceled) in the preliminary amendment and in any subsequent amendment.

The status identifier (not entered) is used for claims that were previously proposed in an amendment (e.g., after-final) that was denied entry.

For any amendment being filed in response to a restriction or election of species requirement and any subsequent amendment, any claims which are non-elected must have the status identifier (withdrawn). Any non-elected claims which are being amended must have either the status identifier (withdrawn) or (withdrawn – currently amended) and the text of the non-elected claims must be presented with markings to indicate the changes. Any non-elected claims that are being canceled must have the status identifier (canceled).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1, 3, 26 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. The following claims recite the limitations

- Claim 1, recites "the configuration" in line 3; "the shape" in lines 8; "the inner portion" in line 12; and "said configuration" in line 13
- Claim 3, lines 2-3 recites "the status of a person present"
- Claim 26 recites "the configuration" in line 3; "the processing" in line 8; "the shape" in lines 7; "said configuration" in lines 10 and 12; and the inner portion" in line 12
- Claim 29 recites "the configuration" in line 2; "the shape" in lines 7; "said configuration" in lines 10 and 12; and the inner portion" in line 11

There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 29 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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Claim 29 is considered software per se. Computer programs may be explicitly claimed as, for example, a series of code or instructions for performing functions or may be implicitly claimed as, for example, a system, a module or an apparatus. Where there is no evidence in the specification that a means which may be interpreted as software, hardware or combinations thereof necessarily includes hardware, it will be interpreted in its broadest reasonable sense as a software means, which is the case here.

Thus a claim to functional descriptive material, including computer programs, per se, is not patent eligible subject matter. It should be noted that functional descriptive material claimed in combination with an appropriate computer readable medium to enable the functionality to be realized is patent eligible subject matter if it is capable of producing a useful, concrete and tangible result when used in the computer system.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 3, 4, 26 and 29 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,586,254 (hereinafter Kondo).

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10. As per claim 1, Kondo discloses a control device (Fig. 1a, element 102) for controlling a building (col. 18, lines 20-34, col. 19, lines 4-6, col. 27, lines 63-67 and col. 28, lines 1-5) comprising:

control means (Fig. 1a, element 103) for changing the of at least one component configuration (col. 26, lines 45-58 and col. 28, lines 6-14; i.e. changing the color, flashing on or off, displaying in enlarged manner, changing display symbols), of components making up said building (col. 18, lines 20-34); and

acquiring means for acquiring status information (col. 26, lines 4-52);

wherein, based on said status information acquired by said acquiring means, said control means deform (i.e. changing display symbols) the shape of a shape-variable member disposed in said building (col. 26, lines 45-58 and col. 28, lines 6-14) or display images on the inner portion of said building so as to visually change said configuration (col. 26, lines 45-58 and col. 28, lines 6-14; i.e. changing the color, flashing on or off, displaying in enlarged manner).

11. As per claim 3, Kondo discloses said status information is information indicating the status illumination in said component (col. 30, lines 29-61)

12. As per claim 4, Kondo discloses a status information storing means (Fig. 1i, element 900) which stores a list (Fig. 11, element 903) relating to said status information (col. 20, lines 10-19, col. 26, lines 52-58 and col. 27, lines 43-54).

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13. As per claim 26, Kondo discloses a control method of a control device (Fig. 1a, element 102) for controlling a building (col. 18, lines 20-34, col. 19, lines 4-6, col. 27, lines 63-67 and col. 28, lines 1-5) including:

a control step for changing the configuration of at least one component (col. 26, lines 45-58 and col. 28, lines 6-14; i.e. changing the color, flashing on or off, displaying in enlarged manner, changing display symbols) of components making up said building (col. 18, lines 20-34); and

an acquiring step for acquiring status information (col. 26, lines 4-52);

wherein, based on said status information acquired by said acquiring means, the processing in said control step deforms (i.e. changing display symbols) the shape of a shape-variable member disposed in said building (col. 26, lines 45-58 and col. 28, lines 6-14), or displays images on the inner portion of said building so as to visually change said configuration (col. 26, lines 45-58 and col. 28, lines 6-14; i.e. changing the color, flashing on or off, displaying in enlarged manner).

14. As per claim 29, Kondo discloses a building (col. 19, lines 4-6, col. 27, lines 63-67 and col. 28, lines 1-5) comprising:

control means (Fig. 1a, element 103) for changing the configuration of at least one component (col. 26, lines 45-58 and col. 28, lines 6-14; i.e. changing the color,



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flashing on or off, displaying in enlarged manner, changing display symbols) of components making up said building (col. 18, lines 20-34); and

acquiring means for acquiring status information (col. 26, lines 4-52);

wherein, based on said status information acquired by said acquiring means, said control means deform (i.e. changing display symbols) the shape of a shape-variable member disposed in said building (col. 26, lines 45-58 and col. 28, lines 6-14), or display images on the inner portion of said building so as to visually change said configuration (col. 26, lines 45-58 and col. 28, lines 6-14; i.e. changing the color, flashing on or off, displaying in enlarged manner).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art with respect to the control and monitoring of a system.

U.S. Patent Publication No. 2003/0135539 discloses a communication apparatus and a communication method, an electronic apparatus and a method for controlling the electronic apparatus, and a storage medium for collecting information relating to apparatus operation from a plurality of users, for generating value-added information relating to users' preferences, and for automatically adapting to provision

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of a variety of services based on user preferences taking advantage of the value-added information.

U.S. Patent Publication No. 2004/0268264 discloses an information processing system and an information processing device, and particularly relates to an information processing system and an information processing device enabling highly functional processing by, for example, multiple action means acting in response to operations of multiple users, or multiple detecting means for detecting the real world in which the multiple acting means act, cooperating to share the load of processing.

U.S. Patent Publication No. 2007/0201107 discloses an image processing system includes an image capturing apparatus, and an image processing apparatus.

U.S. Patent No. 5,227,121 discloses an advanced control room complex for a nuclear power plant, including a discrete indicator and alarm system which is nuclear qualified for rapid response to changes in plant parameters and a component control system which together provide a discrete monitoring and control capability at a panel in the control room.

U.S. Patent No. 6,492,901 discloses an alarm management system and method includes structure and function for receiving one or more process parameter signals representative of one or more process parameters.

U.S. Patent No. 6,275,617 discloses a transmitter which allows the reproduction of a high quality and smooth dynamic image.

U.S. Patent No. 6,990,489 discloses an information processing apparatus for providing content data to terminal units includes a content data storage unit, a communication unit, an input information storage unit, an analysis unit, and a processing unit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer L. Norton whose telephone number is (571)272-3694. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 571-272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

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/Albert DeCady/  
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/JLN/